

1 A bill to be entitled
 2 An act relating to organization and standards of the
 3 Public Service Commission; amending s. 112.324, F.S.;
 4 revising provisions for disposition of ethics complaints
 5 against the Public Counsel and employees of the Public
 6 Counsel; amending s. 350.001, F.S.; revising legislative
 7 intent; repealing s. 350.012, F.S., relating to the
 8 creation and organization of the Committee on Public
 9 Counsel Oversight; amending s. 350.031, F.S.; relating to
 10 terms of members of the Public Service Commission
 11 Nominating Council; creating s. 350.035, F.S.; prohibiting
 12 attempts by certain persons to sway the judgment of
 13 commissioners; providing for the Commission on Ethics to
 14 receive and investigate complaints of violations pursuant
 15 to specified procedures; prohibiting commissioners from
 16 requiring or demanding that certain commission staff
 17 pursue particular positions or courses of action;
 18 requiring the inspector general of the commission to
 19 investigate complaints of violations; amending s. 350.04,
 20 F.S.; requiring commissioners to complete a course of
 21 study developed by the executive director and general
 22 counsel; requiring commissioners to complete continuing
 23 education; providing training requirements for
 24 commissioners and commission employees; requiring
 25 certifications of compliance to be provided to the
 26 Legislature; amending s. 350.041, F.S.; revising
 27 legislative intent; revising standards of conduct for
 28 commissioners; revising provisions for investigation and

29 | reports by the Commission on Ethics of alleged violations;
 30 | authorizing commission employees to request opinions from
 31 | the Commission on Ethics; amending s. 350.042, F.S.;
 32 | revising provisions for communications concerning agency
 33 | proceedings; providing for application of such provisions
 34 | to members of a commissioner's direct staff; revising
 35 | restrictions on such communications by commissioners and
 36 | their direct staff; defining the term "ex parte
 37 | communication"; providing a civil penalty; amending s.
 38 | 350.06, F.S.; revising provisions for the offices of the
 39 | commission, payment of moneys, and employment of
 40 | personnel; amending s. 350.061, F.S.; providing for
 41 | appointment of the Public Counsel by, and service of the
 42 | Public Counsel at the pleasure of, the Attorney General;
 43 | amending ss. 350.0613 and 350.0614, F.S.; providing powers
 44 | and duties of the Attorney General regarding the Public
 45 | Counsel and his or her employees to conform provisions to
 46 | the transfer of the Office of Public Counsel; transferring
 47 | the Office of Public Counsel from the legislative branch
 48 | to the Office of the Attorney General; repealing s.
 49 | 350.121, F.S.; relating to commission inquiries; creating
 50 | s. 350.122, F.S.; requiring persons testifying before the
 51 | Public Service Commission to disclose certain financial
 52 | and fiduciary relationships; providing that a
 53 | determination by the commission that a violation occurred
 54 | constitutes agency action for which a hearing may be
 55 | sought; providing an effective date.

57 Be It Enacted by the Legislature of the State of Florida:

58

59 Section 1. Paragraphs (a) and (c) of subsection (8) of
60 section 112.324, Florida Statutes, are amended to read:

61 (8) If, in cases pertaining to complaints other than
62 complaints against impeachable officers or members of the
63 Legislature, upon completion of a full and final investigation
64 by the commission, the commission finds that there has been a
65 violation of this part or of s. 8, Art. II of the State
66 Constitution, it shall be the duty of the commission to report
67 its findings and recommend appropriate action to the proper
68 disciplinary official or body as follows, and such official or
69 body shall have the power to invoke the penalty provisions of
70 this part, including the power to order the appropriate
71 elections official to remove a candidate from the ballot for a
72 violation of s. 112.3145 or s. 8(a) and (i), Art. II of the
73 State Constitution:

74 (a) The President of the Senate and the Speaker of the
75 House of Representatives, jointly, in any case concerning ~~the~~
76 ~~Public Counsel~~, members of the Public Service Commission,
77 members of the Public Service Commission Nominating Council, the
78 Auditor General, the director of the Office of Program Policy
79 Analysis and Government Accountability, or members of the
80 Legislative Committee on Intergovernmental Relations.

81 (c) The President of the Senate, in any case concerning an
82 employee of the Senate; the Speaker of the House of
83 Representatives, in any case concerning an employee of the House
84 of Representatives; or the President and the Speaker, jointly,

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85 in any case concerning an employee of a committee of the
 86 Legislature whose members are appointed solely by the President
 87 and the Speaker or in any case concerning an employee of the
 88 ~~Public Counsel~~, Public Service Commission, Auditor General,
 89 Office of Program Policy Analysis and Government Accountability,
 90 or Legislative Committee on Intergovernmental Relations.

91 Section 2. Section 350.001, Florida Statutes, is amended
 92 to read:

93 350.001 Legislative intent.—

94 (1) The Florida Public Service Commission has been and
 95 shall continue to be an arm of the legislative branch of
 96 government. In the exercise of its jurisdiction, the commission
 97 shall neither establish nor implement any regulatory policy that
 98 is contrary to, or is an expansion of, the authority granted to
 99 it by the Legislature.

100 (2) The Public Service Commission shall perform its duties
 101 independently, impartially, professionally, honorably, and
 102 without undue influence from any person, pursuant to s. 350.041.

103 Section 3. Section 350.012, Florida Statutes, is repealed.

104 Section 4. Paragraphs (b) and (d) of subsection (1) of
 105 section 350.031, Florida Statutes, are amended to read:

106 350.031 Florida Public Service Commission Nominating
 107 Council.—

108 (1)

109 (b) All terms shall be for 4 years except those members of
 110 the House and Senate, who shall serve 2-year terms concurrent
 111 with the 2-year elected terms of House members. ~~All terms of the~~
 112 ~~members of the Public Service Commission Nominating Council~~

113 ~~existing on June 30, 2008, shall terminate upon the effective~~
 114 ~~date of this act; however, such members may serve an additional~~
 115 ~~term if reappointed by the Speaker of the House of~~
 116 ~~Representatives or the President of the Senate.~~ To establish
 117 staggered terms, appointments of members shall be made for
 118 initial terms to begin on July 1, 2008, with each appointing
 119 officer to appoint three legislator members, one of whom shall
 120 be a member of the minority party, to terms through the
 121 remainder of the 2-year elected terms of House members; one
 122 nonlegislator member to a 6-month term; one nonlegislator member
 123 to an 18-month term; and one nonlegislator member to a 42-month
 124 term. Thereafter, the terms of the nonlegislator members of the
 125 Public Service Commission Nominating Council shall begin on
 126 January 2 of the year the term commences and end 4 years later
 127 on January 1.

128 (d) Vacancies on the council shall be filled for the
 129 unexpired portion of the term in the same manner as original
 130 appointments to the council. A member may not be reappointed to
 131 the council, except for a member of the House of Representatives
 132 or the Senate who may be appointed to two 2-year terms, ~~members~~
 133 ~~who are reappointed pursuant to paragraph (b),~~ or a person who
 134 is appointed to fill the remaining portion of an unexpired term.

135 Section 5. Section 350.035, Florida Statutes, is created
 136 to read:

137 350.035 Prohibited influence on commissioners and
 138 commission staff.-

139 (1) (a) Neither the Governor, the President of the Senate,
 140 the Speaker of the House of Representatives, nor a member of the

141 Public Service Commission Nominating Council shall attempt to
 142 sway the independent judgment of the commission by bringing
 143 pressure to bear upon a commissioner or commission employee
 144 through that person's role in the nomination, appointment, or
 145 confirmation of commissioners.

146 (b) The Commission on Ethics shall receive and investigate
 147 sworn complaints of violations of this subsection pursuant to
 148 ss. 112.322-112.3241.

149 (2) (a) To ensure that each commissioner, as a member of a
 150 collegial body, is afforded the benefit of unbiased and
 151 independent analysis and advice from its professional and
 152 technical staff, an individual commissioner may not demand or
 153 require any member of the commission staff, other than the
 154 commissioner's direct staff, to develop, present, or pursue a
 155 particular opinion, position, or course of action in relation to
 156 any substantive matter pending before the commission or a panel
 157 of commissioners. This paragraph does not prohibit the
 158 commission, as a collegial body, from directing its staff to
 159 pursue a course of action consistent with direction provided by
 160 the collegial body. Further, this paragraph is not intended to
 161 prohibit an individual commissioner from any otherwise lawful
 162 communication with commission staff, including any expression of
 163 opinion, position, or concern regarding a matter within the
 164 jurisdiction of the commission. A violation of this subsection
 165 is an act of malfeasance for purposes of ss. 112.3187-112.31895.

166 (b) The inspector general of the commission shall receive
 167 and investigate complaints of violations of this subsection.

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168 Section 6. Section 350.04, Florida Statutes, is amended to
 169 read:

170 350.04 Qualifications of commissioners; training and
 171 continuing education.-

172 (1) A commissioner may not, at the time of appointment or
 173 during his or her term of office:

174 (a) ~~(1)~~ Have any financial interest, other than ownership
 175 of shares in a mutual fund, in any business entity which, either
 176 directly or indirectly, owns or controls any public utility
 177 regulated by the commission, in any public utility regulated by
 178 the commission, or in any business entity which, either directly
 179 or indirectly, is an affiliate or subsidiary of any public
 180 utility regulated by the commission.

181 (b) ~~(2)~~ Be employed by or engaged in any business activity
 182 with any business entity which, either directly or indirectly,
 183 owns or controls any public utility regulated by the commission,
 184 by any public utility regulated by the commission, or by any
 185 business entity which, either directly or indirectly, is an
 186 affiliate or subsidiary of any public utility regulated by the
 187 commission.

188 (2) Before voting on any matter before the commission,
 189 each person appointed to the commission after July 1, 2011,
 190 shall complete a comprehensive course of study, developed by the
 191 commission's executive director and general counsel in
 192 coordination with the National Association of Regulatory Utility
 193 Commissioners Subcommittee on Education and Research, that
 194 addresses the substantive matters within the jurisdiction of the
 195 commission, administrative law applicable to commission

196 proceedings, and standards of conduct applicable to
 197 commissioners. Thereafter, each commissioner must annually
 198 complete no less than 10 hours of continuing professional
 199 education directly related to substantive matters within the
 200 jurisdiction of the commission.

201 (3) No less than once every 12 months, each commissioner
 202 and commission employee shall receive training, in a form
 203 developed by the commission's executive director and general
 204 counsel, that addresses the ethical standards of conduct
 205 applicable to commissioners and the commission's staff.

206 (4) The chair of the commission shall certify the
 207 commission's compliance with these requirements, and each
 208 commissioner shall certify his or her individual compliance with
 209 the continuing professional education requirements provided in
 210 subsection (2). Each certification of compliance shall be
 211 provided to the President of the Senate and the Speaker of the
 212 House of Representatives.

213 Section 7. Section 350.041, Florida Statutes, is amended
 214 to read:

215 350.041 Commissioners; standards of conduct.—

216 (1) STATEMENT OF INTENT.—

217 (a) Professional, impartial, and honorable commissioners
 218 are indispensable to the effective performance of the
 219 commission's duties. A commissioner shall maintain high
 220 standards of conduct and shall personally observe those
 221 standards so that the integrity and impartiality of the
 222 commission may be preserved. The standards of conduct provided
 223 in this section should be construed and applied to further that

224 objective.

225 (b) In addition to the provisions of part III of chapter
226 112, which are applicable to public service commissioners by
227 virtue of their being public officers and full-time employees of
228 the legislative branch of government, the conduct of public
229 service commissioners shall be governed by the standards of
230 conduct provided in this section. Nothing shall prohibit the
231 standards of conduct from being more restrictive than part III
232 of chapter 112. Further, this section shall not be construed to
233 contravene the restrictions of part III of chapter 112. In the
234 event of a conflict between this section and part III of chapter
235 112, the more restrictive provision shall apply.

236 (2) STANDARDS OF CONDUCT.—

237 (a) A commissioner may not accept anything from any
238 business entity which, either directly or indirectly, owns or
239 controls any public utility regulated by the commission, from
240 any public utility regulated by the commission, or from any
241 business entity which, either directly or indirectly, is an
242 affiliate or subsidiary of any public utility regulated by the
243 commission. A commissioner may attend conferences and associated
244 meals and events that are generally available to all conference
245 participants without payment of any fees in addition to the
246 conference fee. Additionally, while attending a conference, a
247 commissioner may attend meetings, meals, or events that are not
248 sponsored, in whole or in part, by any representative of any
249 public utility regulated by the commission and that are limited
250 to commissioners only, committee members, or speakers if the
251 commissioner is a member of a committee of the association of

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252 regulatory agencies that organized the conference or is a
253 speaker at the conference. It is not a violation of this
254 paragraph for a commissioner to attend a conference for which
255 conference participants who are employed by a utility regulated
256 by the commission have paid a higher conference registration fee
257 than the commissioner, or to attend a meal or event that is
258 generally available to all conference participants without
259 payment of any fees in addition to the conference fee and that
260 is sponsored, in whole or in part, by a utility regulated by the
261 commission. If, during the course of an investigation by the
262 Commission on Ethics into an alleged violation of this
263 paragraph, allegations are made as to the identity of the person
264 giving or providing the prohibited gift, that person must be
265 given notice and an opportunity to participate in the
266 investigation and relevant proceedings to present a defense. If
267 the Commission on Ethics determines that the person gave or
268 provided a prohibited gift, the person may not appear before the
269 commission or otherwise represent anyone before the commission
270 for a period of 2 years.

271 (b) A commissioner may not accept any form of employment
272 with or engage in any business activity with any business entity
273 which, either directly or indirectly, owns or controls any
274 public utility regulated by the commission, any public utility
275 regulated by the commission, or any business entity which,
276 either directly or indirectly, is an affiliate or subsidiary of
277 any public utility regulated by the commission.

278 (c) A commissioner may not have any financial interest,
279 other than shares in a mutual fund, in any public utility

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280 regulated by the commission, in any business entity which,
281 either directly or indirectly, owns or controls any public
282 utility regulated by the commission, or in any business entity
283 which, either directly or indirectly, is an affiliate or
284 subsidiary of any public utility regulated by the commission. If
285 a commissioner acquires any financial interest prohibited by
286 this section during his or her term of office as a result of
287 events or actions beyond the commissioner's control, he or she
288 shall immediately sell such financial interest or place such
289 financial interest in a blind trust at a financial institution.
290 A commissioner may not attempt to influence, or exercise any
291 control over, decisions regarding the blind trust.

292 (d) A commissioner may not accept anything from a party in
293 a proceeding currently pending before the commission. If, during
294 the course of an investigation by the Commission on Ethics into
295 an alleged violation of this paragraph, allegations are made as
296 to the identity of the person giving or providing the prohibited
297 gift, that person must be given notice and an opportunity to
298 participate in the investigation and relevant proceedings to
299 present a defense. If the Commission on Ethics determines that
300 the person gave or provided a prohibited gift, the person may
301 not appear before the commission or otherwise represent anyone
302 before the commission for a period of 2 years.

303 (e) A commissioner may not serve as the representative of
304 any political party or on any executive committee or other
305 governing body of a political party; serve as an executive
306 officer or employee of any political party, committee,
307 organization, or association; receive remuneration for

308 | activities on behalf of any candidate for public office; engage
 309 | on behalf of any candidate for public office in the solicitation
 310 | of votes or other activities on behalf of such candidacy; or
 311 | become a candidate for election to any public office without
 312 | first resigning from office.

313 | (f) A commissioner, during his or her term of office, may
 314 | not make any public comment regarding the merits of any
 315 | proceeding under ss. 120.569 and 120.57 currently pending before
 316 | the commission.

317 | (g) A commissioner may not conduct himself or herself in
 318 | an unprofessional manner at any time during the performance of
 319 | his or her official duties.

320 | (h) The chair shall require order and decorum in
 321 | proceedings before the commission. In the absence of the chair,
 322 | the commissioner presiding over a commission proceeding shall
 323 | require order and decorum in the proceeding.

324 | (i) A commissioner shall be patient, dignified, and
 325 | courteous to litigants, other commissioners, witnesses, lawyers,
 326 | commission staff, and others with whom the commissioner deals in
 327 | an official capacity.

328 | (j) A commissioner shall perform his or her official
 329 | duties without bias or prejudice. A commissioner may not, in the
 330 | performance of his or her official duties, by words or conduct
 331 | manifest bias or prejudice.

332 | (k) A commissioner may not, with respect to parties or
 333 | classes of parties, cases, controversies, or issues likely to
 334 | come before the commission, make pledges, promises, or
 335 | commitments that are inconsistent with the impartial performance

336 of the commissioner's official duties.

337 (l) A commissioner may not be swayed by partisan
 338 interests, public clamor, or fear of criticism.

339 (m) ~~(h)~~ A commissioner must avoid impropriety in all of his
 340 or her activities and must act at all times in a manner that
 341 promotes public confidence in the integrity and impartiality of
 342 the commission.

343 (n) ~~(i)~~ A commissioner may not directly or indirectly,
 344 through staff or other means, solicit anything of value from any
 345 public utility regulated by the commission, or from any business
 346 entity that, whether directly or indirectly, is an affiliate or
 347 subsidiary of any public utility regulated by the commission, or
 348 from any party appearing in a proceeding considered by the
 349 commission in the last 2 years.

350 (3) INVESTIGATIONS; REPORTS; ADVISORY OPINIONS.-

351 (a) The Commission on Ethics shall accept and investigate
 352 any alleged violations of this section pursuant to the
 353 procedures contained in ss. 112.322-112.3241.

354 (b) The Commission on Ethics shall provide the Governor
 355 and the Florida Public Service Commission Nominating Council
 356 with a report of its findings and recommendations with respect
 357 to alleged violations by a public service commissioner. The
 358 Governor is authorized to enforce these ~~the~~ findings and
 359 recommendations ~~of the Commission on Ethics,~~ pursuant to part
 360 III of chapter 112.

361 (c) A public service commissioner, a commission employee,
 362 or a member of the Florida Public Service Commission Nominating
 363 Council may request an advisory opinion from the Commission on

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364 Ethics, pursuant to s. 112.322(3)(a), regarding the standards of
 365 conduct or prohibitions set forth in this section and ss.
 366 350.031, 350.04, and 350.042.

367 Section 8. Section 350.042, Florida Statutes, is amended
 368 to read:

369 350.042 Ex parte communications.—

370 (1) Each ~~A~~ commissioner and member of a commissioner's
 371 direct staff shall ~~should~~ accord to every person who is a party
 372 to or is registered with the commission as an interested person
 373 in a proposed agency action proceeding, or who is a party to a
 374 proceeding under s. 120.565, s. 120.569, or s. 120.57 ~~legally~~
 375 ~~interested in a proceeding, or the person's lawyer, full right~~
 376 ~~to be heard according to law, and, except as authorized by law,~~
 377 ~~shall~~ not ~~neither~~ initiate, solicit, or ~~nor~~ consider ~~ex parte~~
 378 communications concerning a pending proposed agency action ~~the~~
 379 ~~merits, threat, or offer of reward in any proceeding or a~~
 380 proceeding under s. 120.565, s. 120.569, or s. 120.57 ~~other than~~
 381 ~~a proceeding under s. 120.54 or s. 120.565, workshops, or~~
 382 ~~internal affairs meetings.~~ No individual shall discuss ex parte
 383 with a commissioner or a member of a commissioner's direct staff
 384 the merits of any issue that he or she reasonably foresees ~~knows~~
 385 will be filed with the commission ~~within 90 days.~~ ~~The provisions~~
 386 ~~of this subsection shall not apply to commission staff.~~

387 (a) As used in this section, the term "ex parte
 388 communication" means any communication that:

389 1. If it is a written or printed communication or a
 390 communication in electronic form, is not served on all parties
 391 to a proceeding; or

392 2. If it is an oral communication, is made without
 393 adequate notice to the parties and without an opportunity for
 394 the parties to be present and heard.

395 (b) Where circumstances require, ex parte communications
 396 concerning scheduling, administrative purposes, or emergencies
 397 that do not deal with substantive matters or issues on the
 398 merits are authorized, if:

399 1. The commissioner or member of a commissioner's direct
 400 staff reasonably believes that no party will gain a procedural
 401 or tactical advantage as a result of the ex parte communication;
 402 and

403 2. The commissioner or member of a commissioner's direct
 404 staff makes provision promptly to notify all parties of the
 405 substance of the ex parte communication and, where possible,
 406 allows an opportunity to respond.

407 (2) The provisions of this section shall not prohibit an
 408 individual residential ratepayer from communicating with a
 409 commissioner or member of a commissioner's direct staff,
 410 provided that the ratepayer is representing only himself or
 411 herself, without compensation.

412 (3) This section shall not apply to oral communications or
 413 discussions in scheduled and noticed open public meetings of
 414 educational programs or of a conference or other meeting of an
 415 association of regulatory agencies.

416 (4) If a commissioner or member of a commissioner's direct
 417 staff knowingly receives an ex parte communication prohibited by
 418 this section ~~relative to a proceeding other than as set forth in~~
 419 ~~subsection (1),~~ to which he or she is assigned, he or she must

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420 place on the record of the proceeding copies of all written
421 communications received, all written responses to the
422 communications, and a memorandum stating the substance of all
423 oral communications received and all oral responses made, and
424 shall give written notice to all parties to the communication
425 that such matters have been placed on the record. Any party to
426 the proceeding who desires to respond to the ~~an ex parte~~
427 communication may do so. The response must be received by the
428 commission within 10 days after receiving notice that the ~~ex~~
429 ~~parte~~ communication has been placed on the record. The
430 commissioner may, if he or she deems it necessary to eliminate
431 the effect of an ex parte communication received by him or her,
432 withdraw from the proceeding, in which case the chair shall
433 substitute another commissioner for the proceeding.

434 (5) Any individual who makes an ex parte communication
435 prohibited by this section shall submit to the commission a
436 written statement describing the nature of such communication,
437 to include the name of the person making the communication, the
438 name of each ~~the~~ commissioner or direct staff member of a
439 commissioner ~~commissioners~~ receiving the communication, copies
440 of all written communications made, all written responses to
441 such communications, and a memorandum stating the substance of
442 all oral communications received and all oral responses made.
443 The commission shall place on the record of a proceeding all
444 such communications.

445 (6) Any commissioner or member of a commissioner's direct
446 staff who knowingly fails to place on the record any ex parte
447 communication prohibited by this section ~~such communications~~, in

448 violation of this ~~the~~ section, within 15 days after ~~of~~ the date
 449 of the ~~such~~ communication is subject to removal or dismissal and
 450 may be assessed a civil penalty not to exceed \$5,000. Any
 451 individual who knowingly fails to comply with subsection (5) may
 452 be assessed a civil penalty not to exceed \$5,000.

453 (7) (a) It is ~~shall be~~ the duty of the Commission on Ethics
 454 to receive and investigate sworn complaints of violations of
 455 this section pursuant to the procedures contained in ss.
 456 112.322-112.3241.

457 (b) If the Commission on Ethics finds that there has been
 458 a violation of this section by a public service commissioner or
 459 member of a commissioner's direct staff, it shall provide the
 460 Governor and the Florida Public Service Commission Nominating
 461 Council with a report of its findings and recommendations. The
 462 Governor is authorized to enforce the findings and
 463 recommendations of the Commission on Ethics, pursuant to part
 464 III of chapter 112.

465 (c) If a commissioner, a member of a commissioner's direct
 466 staff, or other individual fails or refuses to pay the
 467 Commission on Ethics any civil penalties assessed pursuant to
 468 ~~the provisions of~~ this section, the Commission on Ethics may
 469 bring an action in any circuit court to enforce the ~~such~~
 470 penalty.

471 (d) If, during the course of an investigation by the
 472 Commission on Ethics into an alleged violation of this section,
 473 allegations are made as to the identity of the person who
 474 participated in the ex parte communication, that person must be
 475 given notice and an opportunity to participate in the

476 investigation and relevant proceedings to present a defense. If
 477 the Commission on Ethics determines that the person participated
 478 in the ex parte communication, the person may not appear before
 479 the commission or otherwise represent anyone before the
 480 commission for a period of 2 years.

481 Section 9. Subsections (1), (2), and (3) of section
 482 350.06, Florida Statutes, are amended to read:

483 350.06 Place of meeting; expenditures; employment of
 484 personnel; records availability and fees.—

485 (1) The offices of the commission ~~said commissioners~~ shall
 486 be in the vicinity of Tallahassee, but the commissioners may
 487 hold sessions anywhere in the state at their discretion.

488 (2) All sums of money authorized to be paid on account of
 489 the commission ~~said commissioners~~ shall be paid out of the State
 490 Treasury only on the order of the Chief Financial Officer.

491 (3)(a) The commission shall ~~commissioners may~~ employ an
 492 executive director, a general counsel, and an inspector general
 493 ~~clerical, technical, and professional personnel reasonably~~
 494 ~~necessary for the performance of their duties and may also~~
 495 ~~employ one or more persons capable of stenographic court~~
 496 ~~reporting, to be known as the official reporters of the~~
 497 ~~commission.~~ Selection of the executive director shall be subject
 498 to confirmation by the Senate. Until such time as the Senate
 499 confirms the selection of the executive director, the individual
 500 selected shall perform the functions of the position. If the
 501 Senate refuses to confirm or fails to consider the selection
 502 during its next regular session, the commission shall, within 30
 503 days, select another individual for Senate confirmation. This

504 process shall continue until the Senate has confirmed a
 505 selection. In case of a vacancy in the position of executive
 506 director, the commission shall select a new executive director
 507 in the same manner as the original selection.

508 (b) Each commissioner may employ a chief advisor and an
 509 executive assistant to serve as the direct staff of the
 510 commissioner.

511 (c) Notwithstanding any other provision of law, the
 512 executive director shall employ clerical, technical, and
 513 professional personnel reasonably necessary to assist the
 514 commission in the performance of its duties, and may employ one
 515 or more persons capable of stenographic court reporting, to be
 516 known as the official reporters of the commission. The executive
 517 director shall have sole authority with respect to employment,
 518 compensation, supervision, and direction of agency personnel
 519 other than those personnel employed by the commission and
 520 individual commissioners under paragraphs (a) and (b).

521 (d) The general counsel shall, in consultation with the
 522 executive director, employ attorneys, paralegals, legal
 523 secretaries, and other personnel reasonably necessary to assist
 524 the commission in the performance of its duties.

525 Section 10. Subsection (1) of section 350.061, Florida
 526 Statutes, is amended to read:

527 350.061 Public Counsel; appointment; oath; restrictions on
 528 Public Counsel and his or her employees.—

529 (1) The Attorney General ~~Committee on Public Counsel~~
 530 ~~Oversight~~ shall appoint a Public Counsel ~~by majority vote of the~~
 531 ~~members of the committee~~ to represent the general public of

532 Florida before the Florida Public Service Commission. The Public
 533 Counsel shall be an attorney admitted to practice before the
 534 Florida Supreme Court and shall serve at the pleasure of the
 535 Attorney General ~~Committee on Public Counsel Oversight~~, subject
 536 ~~to biennial reconfirmation by the committee~~. The Public Counsel
 537 shall perform his or her duties independently. Vacancies in the
 538 office shall be filled in the same manner as the original
 539 appointment.

540 Section 11. Section 350.0613, Florida Statutes, is amended
 541 to read:

542 350.0613 Public Counsel; employees; receipt of pleadings.—
 543 The Attorney General ~~committee~~ may authorize the Public Counsel
 544 to employ clerical and technical assistants whose
 545 qualifications, duties, and responsibilities the Attorney
 546 General ~~committee~~ shall from time to time prescribe. The
 547 Attorney General ~~committee~~ may from time to time authorize
 548 retention of the services of additional attorneys or experts to
 549 the extent that the best interests of the people of the state
 550 will be better served thereby, including the retention of expert
 551 witnesses and other technical personnel for participation in
 552 contested proceedings before the commission. The commission
 553 shall furnish the Public Counsel with copies of the initial
 554 pleadings in all proceedings before the commission, and if the
 555 Public Counsel intervenes as a party in any proceeding he or she
 556 shall be served with copies of all subsequent pleadings,
 557 exhibits, and prepared testimony, if used. Upon filing notice of
 558 intervention, the Public Counsel shall serve all interested
 559 parties with copies of such notice and all of his or her

560 subsequent pleadings and exhibits.

561 Section 12. Section 350.0614, Florida Statutes, is amended
562 to read:

563 350.0614 Public Counsel; compensation and expenses.—

564 ~~(1)~~ The salaries and expenses of the Public Counsel and
565 his or her employees shall be allocated by the Attorney General
566 ~~committee~~ only from moneys appropriated to the Public Counsel by
567 the Legislature.

568 ~~(2) The Legislature declares and determines that the~~
569 ~~Public Counsel is under the legislative branch of government~~
570 ~~within the intention of the legislation as expressed in chapter~~
571 ~~216, and no power shall be in the Executive Office of the~~
572 ~~Governor or its successor to release or withhold funds~~
573 ~~appropriated to it, but the same shall be available for~~
574 ~~expenditure as provided by law and the rules or decisions of the~~
575 ~~Committee on Public Counsel Oversight.~~

576 ~~(3) Neither the Executive Office of the Governor nor the~~
577 ~~Department of Management Services or its successor shall have~~
578 ~~power to determine the number, or fix the compensation, of the~~
579 ~~employees of the Public Counsel or to exercise any manner of~~
580 ~~control over them.~~

581 Section 13. (1) All powers, duties, functions, records,
582 offices, personnel, property, pending issues, and existing
583 contracts, administrative authority, administrative rules, and
584 unexpended balances of appropriations, allocations, and other
585 funds relating to the Office of Public Counsel pursuant to s.
586 350.061, Florida Statutes, are transferred by a type two
587 transfer, as defined in s. 20.06(2), Florida Statutes, from the

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588 Legislature to the Office of the Attorney General. The Office of
 589 Public Counsel shall be funded from the General Revenue Fund.

590 (2) Notwithstanding ss. 216.292 and 216.351, Florida
 591 Statutes, upon approval by the Legislative Budget Commission,
 592 the Executive Office of the Governor shall transfer funds and
 593 positions between the Legislature and the Office of the Attorney
 594 General to implement this act.

595 Section 14. Section 350.121, Florida Statutes, is
 596 repealed.

597 Section 15. Section 350.122, Florida Statutes, is created
 598 to read:

599 350.122 Testimony; public disclosure of affiliation.—

600 (1) Each person offering testimony at a meeting, workshop,
 601 hearing, or other scheduled event of the commission shall
 602 disclose any financial or fiduciary relationship with any party
 603 to the proceedings at the time the testimony is provided to the
 604 commission.

605 (2) The determination by the commission that a person has
 606 knowingly violated this section constitutes agency action for
 607 which a hearing may be sought under chapter 120.

608 Section 16. This act shall take effect July 1, 2011.